hard S. Busch, SBN 319881 sch@kingballow.com ll H. Duvall, SBN 73699 rvall@kingballow.com Keith Kelly II, SBN 323469 elly@kingballow.com NG & BALLOW 99 Avenue of the Stars; Suite 1100 ntury City, CA 90067 ephone: 424.253.1255 esimile: 888.688.0482 orneys for Defendants LIAN MICHAELS, EM DIGITAL, C, and EMPOWERED MEDIA, LLC UNITED STATES I	
sch@kingballow.com Il H. Duvall, SBN 73699 Ivall@kingballow.com Keith Kelly II, SBN 323469 Illy@kingballow.com NG & BALLOW Pland Avenue of the Stars; Suite 1100 Intury City, CA 90067 Intury City, CA	
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C, and EMPOWERED MEDIA, LLC	
UNITED STATES I	NETDICT COURT
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	DISTRICT COURT
FOR THE CENTRAL DIS	TRICT OF CALIFORNIA
A FRIEDMAN, individually and on all of herself and all others similarly	Case No.: 2:18-cv-09414-GW-SS
ated,	CLASS ACTION
Plaintiffs,	Honorable George H. Wu
	DEFENDANTS' RESPONSES TO
LIAN MICHAELS, an individual; EM	PLAINTIFF'S EVIDENTIARY OBJECTIONS TO DEFENDANTS'
bility Company; EMPOWERED	EXHIBITS SUBMITTED IN SUPPORT OF THEIR RESPONSE
bility Company; and DOES 1-100,	IN OPPOSITION TO PLAINTIFF'S
lusive,	MOTION FOR CLASS CERTIFICATION
Defendants.	
	Date: September 16, 2019 Time: 8:30 a.m.
	Complaint Filed: August 20, 2018 Removed: November 5, 2018
	Trial Date: March 2, 2020
I	FOR THE CENTRAL DIS A FRIEDMAN, individually and on alf of herself and all others similarly ated, Plaintiffs, LIAN MICHAELS, an individual; EM SITAL, LLC, a Florida Limited bility Company; EMPOWERED DIA, LLC, a California Limited bility Company; and DOES 1-100, usive,

Defendants Jillian Michaels, EM Digital, LLC, and Empowered Media, LLC (collectively "Defendants") hereby oppose and respond to Plaintiff's evidentiary objections and/or motion to strike evidence (D.E. 36-2) submitted by Defendants in support of their Response in Opposition to Plaintiff's Motion for Class Certification (D.E. 33). Plaintiff's objections are without merit and should be overruled for the following reasons:

1. To the extent that Plaintiff filed a Motion to Strike, this Court should deny Plaintiff's Motion to Strike Certain Evidence as it does not comply with Central District of California Local Rule 7-3.

On September 2, 2019, Plaintiff filed Plaintiff's Evidentiary Objections to Defendants' Exhibits Submitted in Support of Their Response in Opposition to Plaintiff's Motion for Class Certification. In this filing, Plaintiff "moves to strike . . . evidence submitted by defendants . . ." (D.E. 36-2 at *2). To the extent that this filing is a motion to strike, this Court should deny the Motion as it does not comply with Central District of California Local Rule 7-3. C.D. (Cal. L.R. 7-3.)

Central District of California Local Rule 7-3 states that "counsel contemplating the filing of any motion shall first contact opposing counsel to discuss thoroughly, preferably in person, the substance of the contemplated motion and any potential resolution." *Id.* The rule further states that the conference "shall take place at least seven (7) days prior to the filing of the motion." *Id.* If the parties are unable to resolve their differences, counsel for the moving party must include the following statement in the notice of motion: "This motion is made following the conference of counsel pursuant to L.R. 7-3 which took place on (date)." *Id.* In this case, Plaintiff's motion to strike did not contain the required statement confirming that a meet-and-confer had taken place. Further, Plaintiff's counsel did not request to, nor did they meet or confer with Defendants' counsel regarding the motion to strike certain evidence. As such, to the extent that this filing is a motion to strike any evidence, this Court should deny

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the motion as it does not comply with Central District of California Local Rule 7-3.

2. Specific Responses to Plaintiff's Objections to Defendants' Exhibits Submitted in Support of Their Response in Opposition to Plaintiff's Motion for Class Certification.

5 6	No.	Material	Grounds for Objection:	Response:	Ruling:
7		Objected to:			
8	1.	Exhibit 5:	(1) Relevance;	(1) Defendants challenge that	Sustained:
9		Forbes article	(2) Lacks	Plaintiff is an adequate class	
10		titled "Phoney Lawsuits:	Foundation; (3) Fed. R.	representative due in part to her husband's, attorney Todd	
11		Attorneys	Evid. 801(c)	Friedman, apparent	Overruled:
		Accused of	Hearsay and	involvement with this	
12		Racketeering	hearsay within	litigation and potential	
13		Manufactured	hearsay	coordination with Plaintiff's	
14		Claims"		counsel in creating this litigation.	
15				Evidence turned over on	
				September 10, 2019, by	
16				Plaintiff further supports this	
17				argument as it reveals that Todd Friedman was the	
18				individual who initiated the	
19				lawsuit. (See Declaration D.	
				Keith Kelly II, ¶ 2, Ex. 1 − LF	
20				46 – April 16, 2018 email	
21				from Todd Friedman to "Paralegal 1" cc John	
22				Kristensen – "Please open a	
23				class action for lisa and open.	
24				John I will need an agreement	
				from your office.") Defendants	
25				suspect based on the evidence provided to date that there are	
26				an untold number of additional	
27				emails between Mr. Friedman	
28				and Plaintiff's counsel,	

1	relating to this litigation which
	have not been produced and
2	further support Defendants'
3	theory.
	The referenced article is
4	relevant as it discusses other
5	instances in which Todd
	Friedman has been previously
6	accused of assisting others in
7	filing frivolous litigation.
8	Pursuant to Fed. R. Evid.
	401(a), "Evidence is relevant
9	if: it has any tendency to make a fact more or less probable
10	than it would be without the
11	evidence." Here, the evidence
11	presented is relevant as it goes
12	towards the above points and
13	demonstrates that Plaintiff
	and/or Plaintiff's counsel are
14	not adequate representatives
15	for the class.
1.	(2) Pursuant to Fed. R. Evid.
16	902(6) Newspapers and
17	Periodicals are deemed self-
18	authenticating. As discussed
	above, the article is relevant
19	for a number of reasons
20	relating to the adequacy of representation allegations.
21	Last, the foundation for this
21	document was set forth in
22	Defendants' Opposition which
23	further addresses the above
	adequacy points.
24	(3) The article is not submitted
25	for the truth of the matter
26	asserted in the article, instead
26	it is submitted to show that an
27	article has been written
28	regarding allegations raised

$_{1}\parallel$				against Attorney Todd	
				Friedman. As such, it is not	
2				hearsay as defined by Fed. R.	
3			(1) 7 1	Evid. 801(c)	
$_{4}\Vert$	2.	Exhibit 6: Eric J.	` '	(1) Defendants challenge that	Sustained:
4		Troutman article	` '	Plaintiff is an adequate class	
5		titled	Foundation;	representative due in part to	
6		"Firestarter: TCPA World's	(3) Fed. R.	her husband's, attorney Todd	Overruled:
		Most	Evid. 801(c) Hearsay and	Friedman, apparent involvement with this	Overruled.
7		Adventurous	hearsay within	litigation and potential	
8		Frequent	hearsay	coordination with Plaintiff's	
		Flyer—Todd	nearsay	counsel in creating this	
9		Friedman—		litigation.	
10		Joins Second		Evidence turned over on	
$_{11}\ $		Episode of		September 10, 2019 by	
		Unpresented		Plaintiff further supports this	
12		Podcast"		argument as it shows that	
13				Todd Friedman was the	
$_{14}$				individual who initiated the	
14				lawsuit. (See Declaration D.	
15				Keith Kelly II, ¶ 2, Ex. 1 – LF	
16				46 – April 16, 2018 email	
				from Todd Friedman to	
17				"Paralegal 1" cc John	
18				Kristensen – "Please open a class action for lisa and open.	
19				John I will need an agreement	
19				from your office.") There are	
20				an untold number of emails	
$_{21}$				between Mr. Friedman and	
				Plaintiff's counsel, a few of	
22				which have just been	
23				produced.	
24				The referenced article is	
				relevant as it discusses other	
25				instances in which Todd	
26				Friedman has been previously	
				accused of assisting others in	
27				filing frivolous litigation.	
28				Further, this article merely	

1	quotes Todd Friedman during
	a public interview with the law
2	firm Squire Patton Boggs. The
3	audio from that interview is
4	publicly available at:
4	https://soundcloud.com/user-
5	296303717/episode-2-todd-
6	friedman-atds-definition-
	willfulness-fcc-developments. Pursuant to Fed. R. Evid.
7	401(a), "Evidence is relevant
8	if: it has any tendency to make
	a fact more or less probable
9	than it would be without the
10	evidence." Here, the evidence
11	presented is relevant as it goes
	towards the above points and
12	demonstrates that Plaintiff
13	and/or Plaintiff's counsel are
1.4	not adequate representatives
14	for the class.
15	(2) Pursuant to Fed. R. Evid.
16	902(6) Newspapers and
	Periodicals are deemed self-
17	authenticating. As discussed
18	above, the article is relevant for a number of reasons
10	relating to the adequacy of
19	representation allegations.
20	Last, the foundation for this
21	document was set forth in
	Defendants' Opposition which
22	further addresses the above
23	adequacy points.
24	(3) The article is not submitted
24	for the truth of the matter
25	asserted in the article, instead
26	it is submitted to show that an
	article has been written
27	regarding allegations raised
28	against Attorney Todd

1				Friedman. As such, it is not	
2				hearsay as defined by Fed. R.	
	3.	Exhibit 7:	(1) Has not	Evid. 801(c) (1) Exhibit 7 consists of	Sustained:
3	<i>J</i> .	Information	been	several screenshots capturing	Sustamed.
4		relating to the	authenticated	the homepage of	
5		My Fitness by	(2) Lacks	www.jillianmichaels.com from	
6		Jillian Michaels	foundation,	March 30, 2017, through July	Overruled:
		website, Bates stamped EM	(3) Fed. R. Evid. 801(c)	27, 2019. As evidenced by the	
7		207-224	Hearsay and	screenshots, they were pulled	
8			Hearsay within	from the "Wayback Machine"	
9			Hearsay	located at	
10				https://archive.org/web. The	
				Wayback Machine works by	
11				crawling over the web with	
12				bots that automatically fetch as	
13				many pages as they can find	
14				and store it all in a searchable	
15				public database, effectively	
				snapshotting the world's	
16				websites on a given day. A	
17				number of California courts	
18				have found records generated from the Wayback machine to	
19				satisfy the authenticity	
				requirement. See e.g. In re	
20				Packaged Seafood Prods.	
21				Antitrust Litig., 338 F. Supp.	
22				3d 1118, 1132 n.8 (S.D. Cal.	
23				2018); See also Larsen v.	
				Vizio, Inc., No. SACV 14-	
24				01865-CJC(JCGx), 2017 U.S.	
25				Dist. LEXIS 116195, at *16	
26				(C.D. Cal. June 26, 2017). As	
27				further supported by the	
28				Supplemental Declaration of	
ك∠				_	

1	Kenneth Lancaster, he
2	personally pulled the
2	challenged document from the
3	Wayback Machine for
4	production and can further
5	attest that the document is an
	accurate representation of the
6	website as of the date pulled
7	based on his personal
8	knowledge. See Supplemental
	Declaration of Kenneth
9	Lancaster at ¶ 2.
10	(2) Kenneth Lancaster's
11	Supplemental Declaration
12	further supports the foundation
	of this document as discussed
13	above. Kenneth Lancaster
14	personally pulled these
15	documents from the Wayback
	Machine and can attest that
16	they are accurate
17	representations of the website
18	at that time based on his
19	personal knowledge. See
	Supplemental Declaration of
20	Kenneth Lancaster at ¶ 2.
21	(3) As it relates to hearsay, the
22	images in Exhibit 7 are not
23	offered for the truth of the
	matter asserted in the images,
24	instead they are offered to
25	show what a user would see
26	when viewing the website. See
	Larsen v. Vizio, Inc., No.
27	SACV 14-01865-CJC(JCGx),

				Т	
1				2017 U.S. Dist. LEXIS	
$_{2}\Vert$				116195, at *16 (C.D. Cal. June	
				26, 2017) ("[C]opies of the	
3				webpage are not hearsay.	
4				[Defendant] is not offering the	
5				copies of the webpage for the	
				truth of the matters asserted in	
6				them. Rather, [Defendant] is	
7				offering the copies of the	
8				webpage to show what specific	
9				statements the webpage	
	4	E 13140	(1) II	contained.")	C 1
10	4.	Exhibit 8: Information	(1) Has not been	(1) Exhibit 8 consists of	Sustained:
11		relating to the	authenticated	several screenshots capturing	
12		My Fitness by	(2) Lacks	the homepage of	
13		Jillian Michaels	foundation,	www.jillianmichaels.com on January 4, 2018, and August	Overruled:
		website, Bates	(3) Fed. R.	24, 2018. As evidenced by the	
14		stamped EM 253-256	Evid. 801(c) Hearsay and	screenshots, they were pulled	
15		233-230	Hearsay within	from the "Wayback Machine."	
16			Hearsay	The Wayback Machine works	
17			·	by crawling over the web with	
				bots that automatically fetch as	
18				many pages as they can find	
19				and store it all in a searchable	
20				public database, effectively	
$_{21}$				snapshotting the world's	
22				websites on a given day. A	
				number of California courts	
23				have found records generated	
24				from the Wayback machine to	
25				satisfy the authenticity	
26				requirement. See e.g. In re	
				Packaged Seafood Prods.	
27				Antitrust Litig., 338 F. Supp.	

1		3d 1118, 1132 n.8 (S.D. Cal.
		2018); See also Larsen v.
2		Vizio, Inc., No. SACV 14-
3		01865-CJC(JCGx), 2017 U.S.
4		Dist. LEXIS 116195, at *16
5		(C.D. Cal. June 26, 2017). As
		further supported by the
6		Supplemental Declaration of
7		Kenneth Lancaster, he
8		personally pulled the
		challenged document from the
9		Wayback Machine for
10		production and can further
11		attest that the document is an
12		accurate representation of the
		website as of the date pulled
13		based on his personal
14		knowledge. See Supplemental
15		Declaration of Kenneth
		Lancaster at ¶ 3.
16		(2) Kenneth Lancaster
17		personally pulled these
18		documents from the Wayback
19		Machine and can attest that
		they are accurate
20		representations of the website
21		at that time based on his
22		personal knowledge. See
		Supplemental Declaration of
23		Kenneth Lancaster at ¶ 3.
24		(3) As it relates to hearsay, the
25		images in Exhibit 8 are not offered for the truth of the
26		matter asserted in the images,
		instead they are offered to
27		show what a user would see
- 1	Ī	

28

1				when viewing the website. See	
				Larsen v. Vizio, Inc., No.	
$2 \parallel$				SACV 14-01865-CJC(JCGx),	
3				2017 U.S. Dist. LEXIS	
$_{4}\parallel$				116195, at *16 (C.D. Cal. June 26, 2017) ("[C]opies of the	
				webpage are not hearsay.	
5				[Defendant] is not offering the	
6				copies of the webpage for the	
7				truth of the matters asserted in	
				them. Rather, [Defendant] is	
8				offering the copies of the	
9				webpage to show what specific	
10				statements the webpage	
	_	E 17140 D 4	(1) II	contained.")	G 1
11	5.	Exhibit 9: Data	(1) Has not been	(1) Exhibit 9 is the data log	Sustained:
12		relating to Plaintiff's My	authenticated	file automatically generated by the "My Fitness by Jillian	
13		Fitness by	(2) Lacks	Michaels" system. Data logs	
13		Michaels	foundation,	are automatically created for	Overruled:
14		account	(3) Fed. R.	each new user account when	
15			Evid. 801(c)	they sign up for the "My	
			Hearsay and	Fitness by Jillian Michaels"	
16			Hearsay within		
17			Hearsay	log created by the system for	
18				Plaintiff Lisa Friedman. The	
				website tracks various events	
19				such as automated emails, user logins, and other various user	
20				activity and/or system related	
$_{21}$				logging events. Such events	
				are attached to each	
22				corresponding user's account.	
23				As set forth in the	
24				Supplemental Declaration of	
				Kenneth Lancaster, Mr.	
25				Lancaster personally requested	
26				and reviewed the database pull on any recorded system events	
27				such as automated email	
				messages, logins, password	
28				messages, rogins, password	

1				resets, and anything else that	
				might have been recorded for	
$2 \parallel$				Plaintiff's account. See	
3				Declaration of Kenneth	
$_{4}\Vert$				Lancaster at ¶ 4.	
7				(2) Kenneth Lancaster's	
5				Supplemental Declaration further supports the foundation	
6				of this document as discussed	
_				above. See Supplemental	
7				Declaration of Kenneth	
8				Lancaster at ¶ 4.	
9				(3) As it relates to hearsay, the	
				images in Exhibit 9 are not	
10				offered for the truth of the	
11				matter asserted in the images,	
				instead they are offered to	
12				show what a user would see	
13				when viewing the website. See	
$_{14}$				Larsen v. Vizio, Inc., No.	
				SACV 14-01865-CJC(JCGx),	
15				2017 U.S. Dist. LEXIS	
16				116195, at *16 (C.D. Cal. June	
				26, 2017) ("[C]opies of the webpage are not hearsay.	
17				[Defendant] is not offering the	
18				copies of the webpage for the	
19				truth of the matters asserted in	
				them. Rather, [Defendant] is	
20				offering the copies of the	
21				webpage to show what specific	
				statements the webpage	
22				contained.")	
23	6.	Exhibit 10:	(1) Has not	(1) Exhibit 10 consists of a	Sustained:
$_{24}$		Information	been	screenshot capturing the help	
		relating to the	authenticated,	page for	
25		My Fitness by Jillian Michaels	(2) Lacks	www.jillianmichaels.com as it	Overruled:
26		Website, Bates	foundation, and (3) Fed. R.	appeared on September 8,	Overruleu:
27		stamped EM	Evid. 801(c)	2018. As evidenced by the	
		276	Hearsay and	screenshot, it was pulled from	
28		_, _	and	12	

	 	
1	Hearsay within	
2	Hearsay	Wayback Machine works by
		crawling over the web with
3		bots that automatically fetch as
4		many pages as they can find
5		and store it all in a searchable
		public database, effectively
6		snapshotting the world's
7		websites on a given day. A
8		number of California courts
9		have found records generated
		from the Wayback Machine to
10		satisfy the authenticity
11		requirement. See e.g. In re
12		Packaged Seafood Prods.
		Antitrust Litig., 338 F. Supp.
13		3d 1118, 1132 n.8 (S.D. Cal.
14		2018); See also Larsen v.
15		Vizio, Inc., No. SACV 14-
16		01865-CJC(JCGx), 2017 U.S.
		Dist. LEXIS 116195, at *16
17		(C.D. Cal. June 26, 2017). As
18		further supported by the
19		Supplemental Declaration of
20		Kenneth Lancaster, he
		personally pulled the
21		challenged document from the
22		Wayback Machine for production and can further
23		attest that the document is an
		accurate representation of the
24		website as of the date pulled
25		based on his personal
26		knowledge. See Supplemental
27		Declaration of Kenneth
21		Deciaration of Remietti

	Lancaster at ¶5.
1	(2) Kenneth Lancaster's
2	Supplemental Declaration
3	further supports the foundation
	of this document as discussed
4	above. Kenneth Lancaster
5	personally pulled these
	documents from the Wayback
6	Machine and can attest that
7	they are accurate
8	representations of the website
	at that time based on his
9	personal knowledge. See
10	Supplemental Declaration of Kenneth Lancaster at ¶ 5.
11	(3) As it relates to hearsay, the
11	images in Exhibit 10 are not
12	offered for the truth of the
13	matter asserted in the images,
1.4	instead they are offered to
14	show what a user would see
15	when viewing the website. For
16	the reasons discussed above,
	images offered to show what a
17	user would see when viewing
18	the website are not hearsay.
19	See Larsen v. Vizio, Inc., No. SACV 14-01865-CJC(JCGx),
19	2017 U.S. Dist. LEXIS
20	116195, at *16 (C.D. Cal. June
21	26, 2017) ("[C]opies of the
22	webpage are not hearsay.
22	[Defendant] is not offering the
23	copies of the webpage for the
24	truth of the matters asserted in
	them. Rather, [Defendant] is
25	offering the copies of the
26	webpage to show what specific
27	statements the webpage contained.")
41	Contained.)

1	7.	Exhibit 11:	(1) Has not	(1) Exhibit 11 is a compilation	Sustained:
		Information	been	of screenshots pulled from the	
2		relating to the	authenticated,	www.jillianmichaels.com	
3		My Fitness by	(2) Lacks	webpage. As set forth in the	
		Jillian Michaels	foundation, and	Supplemental Declaration of	Overruled:
4		Website, Bates	(3) Hearsay	Kenneth Lancaster, he	
5		stamped EM 186-189	and hearsay	personally pulled these	
6		100-109	within hearsay	screenshots directly from the www.jillianmichaels.com	
				webpage and can attest that	
7				they are true and accurate	
8				copies of the webpage as of	
9				the date they were pulled in	
				2018. Further, the copy of the	
10				email included on page 5, is a	
11				true and accurate copy of the	
12				welcome email sent to all	
12				users. This copy is an example	
13				email which Mr. Lancaster	
14				generated and sent to Julie White for representation	
1				purposes. See Supplemental	
15				Declaration of Kenneth	
16				Lancaster at ¶ 6.	
17				(2) Kenneth Lancaster	
				personally pulled these	
18				documents from the MY	
19				Fitness by Jillian Michaels	
20				website and can attest that they	
				are accurate representations of	
21				the website at that time based on his personal knowledge.	
22				Further Mr. Lancaster can	
23				attest to the accuracy of the	
				email contained on pg. 5. See	
24				Supplemental Declaration of	
25				Kenneth Lancaster at ¶ 6.	
				(3) As it relates to hearsay, the	
26				images in Exhibit 11 are not	
27				offered for the truth of the	
28				matter asserted in the images,	

	l				
1				instead they are offered to	
2				show what a user would see	
				when viewing the website at	
3				the time the images were captured. For the reasons	
4				discussed above, images	
_				offered to show what a user	
5				would see when viewing the	
6				website are not hearsay. See	
7				Larsen v. Vizio, Inc., No.	
				SACV 14-01865-CJC(JCGx),	
8				2017 U.S. Dist. LEXIS	
9				116195, at *16 (C.D. Cal. June	
10				26, 2017) ("[C]opies of the	
				webpage are not hearsay. [Defendant] is not offering the	
11				copies of the webpage for the	
12				truth of the matters asserted in	
13				them. Rather, [Defendant] is	
				offering the copies of the	
14				webpage to show what specific	
15				statements the webpage	
16				contained.") The additional	
				commentary created by	
17				Kenneth Lancaster merely serves as a narrative to	
18				highlight the images on the	
19				page.	
	8.	Exhibit 12:	(1) Has not	(1) Exhibit 12 consists of a	Sustained:
20		Information	been	screenshot capturing a portion	
21		relating to the	authenticated,	of the	
22		My Fitness by Jillian Michaels	(2) Lacks foundation,	www.jillianmichaels.com/app	Overruled:
23		Website, Bates	(3) Hearsay	website as of January 5, 2018.	Overraica.
		stamped EM	and hearsay	As evidenced by the	
24		259	within hearsay	screenshot, it was pulled from	
25				the "Wayback Machine." The	
26				Wayback Machine works by	
				crawling over the web with	
27				bots that automatically fetch as	
28				16	

1		many pages as they can find
		and store it all in a searchable
2		public database, effectively
3		snapshotting the world's
4		websites on a given day. A
5		number of California courts
		have found records generated
6		from the Wayback machine to
7		satisfy the authenticity
8		requirement. See e.g. In re
		Packaged Seafood Prods.
9		Antitrust Litig., 338 F. Supp.
10		3d 1118, 1132 n.8 (S.D. Cal.
11		2018); See also Larsen v.
12		Vizio, Inc., No. SACV 14-
		01865-CJC(JCGx), 2017 U.S.
13		Dist. LEXIS 116195, at *16
14		(C.D. Cal. June 26, 2017). As
15		further supported by the
		Supplemental Declaration of
16		Kenneth Lancaster, he
17		personally pulled the
18		challenged document from the
19		Wayback Machine for
		production and can further
20		attest that the document is an
21		accurate representation of the
22		website as of the date pulled
23		based on his personal
		knowledge. See Supplemental
24		Declaration of Kenneth
25		Lancaster at ¶ 7.
26		(2) Kelly's Declaration is sufficient to establish
		authenticity and foundation as
27		he is a witness with knowledge
28		

	l	
1		pursuant to Fed. R. Evid.
		901(b)(1). Kenneth
2		Lancaster's Supplemental
3		Declaration further supports
		the foundation of this
4		document as discussed above.
5		See Supplemental Declaration
		of Kenneth Lancaster at ¶ 7.
6		(3) As it relates to hearsay, the
7		images in Exhibit 12 are not
		offered for the truth of the
8		matter asserted in the images,
9		instead they are offered to
		show what a user would see
10		when viewing the website. For
11		the reasons discussed above,
10		images offered to show what a
12		user would see when viewing
13		the website are not hearsay.
1.4		See Larsen v. Vizio, Inc., No.
14		SACV 14-01865-CJC(JCGx),
15		2017 U.S. Dist. LEXIS
1.6		116195, at *16 (C.D. Cal. June
16		26, 2017) ("[C]opies of the
17		webpage are not hearsay.
18		[Defendant] is not offering the
16		copies of the webpage for the
19		truth of the matters asserted in
20		them. Rather, [Defendant] is
20		offering the copies of the
21		webpage to show what specific
22		statements the webpage
		contained.")
23		

Dated September 12, 2019 Respectfully Submitted, /s/ Richard S. Busch Richard S. Busch Attorney for Defendants JILLIAN MICHAELS, EM DIGITAL, LLC and EMPOWERED MEDIA, LLC